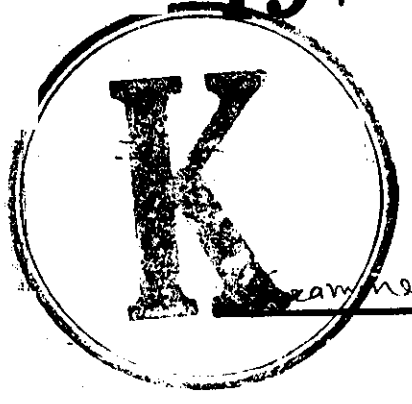
1942.

File No. L. Electric/42



Legal DEPARTMENT

E BRANCH

P 4 (E)

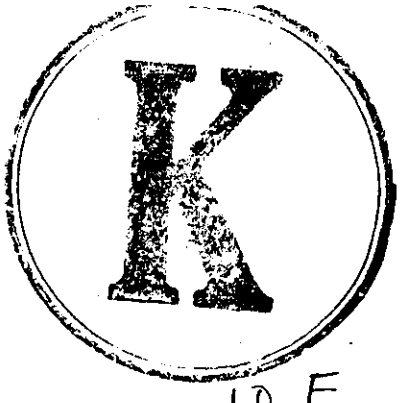
Subject:— Electric – Lines

~~Sewal~~ Scrutiny of —

Under Sections 3 and 28 of —

the Indian Electric Act.

File No. E. L. Electric/42



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Office of the R.L.A.

Clause (VII) of the sanction granted to Mr.Karlekar under section 28 of the Indian Electricity Act, 1910 provides that the sanction may be revoked or withdrawn at any time for breach of any of the conditions therein mentioned. The sanction may also be revoked or transferred at any time by Government for any reasons which Government considers fit and proper after giving the applicant at least six calendar months' previous notice in writing. On the expiration of such notice or in case the applicant ceases from any cause beyond his control to supply energy to the public, the applicant shall, at his own expense, forthwith remove all aerial and other supply lines, etc. It appears that the supply of energy frequently failed as a result of the breakdowns in the plant and defects in the engines and the Electrial Engineer desired to prosecute Mr.Karlekar. R.L.A. however advised that it was doubtful whether Mr.Karlekar could be prosecuted.(See R.L.A's opinion No.6950 dated 7th August 1941). The Government therefore now desires to take action under clause (VII) of the sanction above referred to and has sent for approval the draft notice at pages 165-166. It is a conditional notice in the sense that the sanction holder is required to carry out certain repairs within six months and in default his sanction is proposed to be revoked. The action is intended to be taken under the second part of clause (VII). There is no breach of any specific condition of the sanction alleged for which sanction can be revoked forthwith. The question for consideration is whether such a conditional notice can be given under clause (VII) and secondly whether even if a notice is given to revoke the sanction it is necessary to mention in the notice the grounds of revocation?

2. It is not possible to give a conditional notice under clause (VII). The notice must be absolute in the sense that the sanction will stand revoked at the expiry of the period of notice irrespective of the question of any repairs. It would be open, of course, to the Government to continue the sanction even after the expiry of the period of notice if the Government so desires; but the notice as such should be absolute. Secondly, the Government should mention in the notice the grounds of revocation. It is only fair that ~~to~~ the sanction holder ~~that he~~ should know the grounds on which his sanction is being revoked. When a license is revoked under section 4 of the Act the Government usually mentions the conditions for breach of which or the grounds on which the license is being revoked. The same procedure should apply even when a sanction is revoked under the terms of the sanction. A revised draft notice is accordingly appended.

O.C. Pww 26/12

Remembrancer of Legal Affairs.

VJP

U.R. to P.W.D., No. 15, dated the 3rd January 1942 ~~December 1941.~~

Submitted for signature of the R.L.A

VJP. 27/12

A. A.S.R. 22/12

A.L.R. 22.12.41

R.L.A.

Submitted after name

An index card put in

file

Eng.

5/1/52

Schenker

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195

No.

Public Works Department.

Bombay Castle, 194 .

To

Raghunath Ramchandra Karlekar, Esquire,
Proprietor, Ilkal Electricity Company,
Ilkal (District Bijapur).

Subject:- Ilkal Electricity supply.

Dear Sir,

Whereas by Government Notification in the Public Works Department No.9091/27, dated the 23rd May 1935, you were granted sanction to engage in the business of supplying energy within the limits and subject to the conditions specified in the said notification.

And whereas the supply of energy has frequently failed at Ilkal as a result of the breakdowns in the plant and defects in the engines.

And whereas on an inspection of the power house and supply system at Ilkal the following defects are still found to exist, namely:-

(1) None of the generating sets in the power house is in a proper mechanical condition; they have become inefficient and are in urgent need of a thorough overhaul and replacement of parts.

(2) The cooling water is hard and the scale collecting in the water Jac ets of the engines causes the cylinder heads to crack from time to time and consequently, the danger of breakdown and interruption of supply is present at all times.

(3) The distribution system is not properly maintained so much so, that crows nests are visible among the conductors in several places.

And whereas Government of Bombay is of opinion that

there are fit and proper reasons for revoking the sanction under clause (VII) of the said notification.

Now, therefore, I am directed to give you notice which I hereby do that sanction granted to you under Government Notification in the Public Works Department No.9091/27, dated the 23rd May 1935, to engage in the business of supplying energy, under section 28 of the Indian Electricity Act, 1910 (IX of 1910) within the limits of the municipal district of Ilkal, shall stand revoked under clause (VII) of the Schedule set forth in the said notification on the expiry of six calendar months from the .....

Yours faithfully,

L Electric /4-2

5.1.42

THE SC... GOVERNMENT
IN ... TMENT
File No. 1827
Date ... 15/12/42

The Haveri Electric License, 1940:
Assignment to Mr. P. N. Agate of —.

GOVERNMENT OF BOMBAY.

PUBLIC WORKS DEPARTMENT.

Resolution No. 4696/36.

Bombay Castle, 12th November 1942.

Letter, dated the 16th July 1940 from Mr. N. D. Nerurkar, Licensee, The Haveri Electric License, 1940 :—

" With reference to the above license granted to me under *Bombay Government Gazette* notification, dated 30th April 1940, I hereby request permission to assign the license together with the rights, powers, authorities, obligations and liabilities of the same, to the Haveri Power Company Limited, a private limited company, which is proposed to be formed and registered in Bombay.

The Managing Director of this Company will be Mr. P. N. Agate, B.Sc., A.M.I.E.E., M.I.E. (Ind), Chartered Electrical Engineer, Bombay.

Since it will be in the public interest to hasten fulfilment of the conditions granted by the license, I beg to request that early approval of the Government to the assignment may be accorded as provided in paragraph 14 of the license."

Read Government Letter, No. 4696/36-M, dated the 6th August 1940, to Mr. N. D. Nerurkar.

Read letter from the Haveri Electric Supply Company, dated the 15th August 1940.

Government Letter No. 4696/36-M, dated the 29th August 1940, to Mr. N. D. Nerurkar :—

" With reference to letter dated the 15th August 1940 from the Haveri Electric Supply Company (copy enclosed), I am directed to state that a copy of the memorandum and Articles of Association of the Company, together with details of the terms on which it is proposed to assign the license, may be furnished to Government, when ready. The question of giving consent to the assignment of the license will be considered further on receipt of the documents in question.

" 2. * * * * * * *

" 3. It is requested that until the license is actually assigned to the Company, all correspondence with Government should be conducted by yourself and not by the Company."

Letter from Mr. N. D. Nerurkar, dated the 22nd October 1940 :—

" In our letter, dated 15th July 1940 we had sought permission from you to transfer the above license in the name of Haveri Power Company Limited, but in order to facilitate the work quite smoothly we hope you will be pleased to allow us to transfer the said license in the name of Mr. P. N. Agate, B.Sc., A.M.I.E.E., M.I.E. (Ind), who is the Managing Director of the Haveri Power Company, Limited.

We hope you will be pleased to grant the above permission at a very early date."

Government Letter No. 4696/36-M, dated the 16th November 1940, to Mr. N. D. Nerurkar :—

" With reference to the correspondence ending with your letter, dated the 22nd October 1940, I am directed to request you to furnish Government with details of the terms on which it is proposed to assign the license to Mr. Agate, after which the question of giving consent to the assignment of the license will be considered further.

" 2. * * * * * * *

Letter from Mr. N. D. Nerurkar, dated the 18th December 1940 :—

" In continuation of our letter of the 22nd October 1940 regarding permission for assignment of the license I beg to submit herewith a draft* of the proposed sale deed with Mr. P. N. Agate, B.Sc., A.M.I.E.E., M.I.E. (Ind), who is the Managing Director of the Haveri Electricity Company and to request that the permission applied for may kindly be granted at an early date."

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*Not printed.

Government Letter No. 4696/36-M, dated the 22nd January 1941, to Mr. N. D. Nerurkar :—

" With reference to your letter, dated the 18th December 1940, on the subject mentioned above, I am directed to state that it appears from the draft of the proposed sale deed, that the license and the undertaking will be transferred in consideration of a sum of Rs. 48,000. I am to request you to furnish Government with full details of the capital expenditure incurred by you in connection with the undertaking and the basis on which the amount of Rs. 48,000 referred to above has been fixed."

Letter from Mr. N. D. Nerurkar, dated the 16th March 1941 :—

" As desired by Government in their letter, Public Works Department, No. 4696/36-M, dated the 22nd January 1941, I beg to submit herewith a statement* showing details of the capital expenditure incurred on the concern from which it may please be seen that after allowing for depreciation on the properties, the amount of Rs. 48,000 has been fixed as shown below :—

		Rs.
Total value of the property	...	59,020
Less depreciation allowed	...	10,618
Net value	...	48,402
Or say	...	48,000 "

Memorandum from the Electrical Engineer to Government, No. L.R.M. 64/89, dated the 4th April 1941 :—

" * * * * * * *

" 2. The cost of the undertaking, viz. Rs. 48,000, stated by Mr. Nerurkar is considered reasonable, and the question of assignment of the license may be proceeded with."

Government Letter No. 4696/36-M, dated the 5th June 1941, to Mr. N. D. Nerurkar :—

" With reference to the correspondence ending with your letter, dated the 16th March 1941, I am directed to state that Government proposes to give the necessary consent to the assignment of the license mentioned above in the accompanying form of memorandum to be endorsed on the original license. I am to enquire whether you have any remarks to make on the draft memorandum.

" 2. I am to request that the original license in question may please be sent to Government along with your reply. The same will be returned to you when the memorandum of consent has been endorsed thereon."

Letter from Mr. N. D. Nerurkar, dated the 31st October 1942 :—

" With reference to your letter, dated 5th June 1941, I beg to state that I have decided to assign the Haveri Electric License, 1940, to Mr. P. N. Agate. I am enclosing herewith the original License for the endorsement of the Memorandum of consent by the Government. I beg to inform you that I do not want to make remarks on the draft Memorandum."

RESOLUTION.—The Government of Bombay is pleased to consent under the provisions of sub-section (*2*) of section 9 of the Indian Electricity Act, 1910, to the assignment and transfer by Mr. Narayan Dattaram Nerurkar, the present holder of the Haveri Electric License, 1940, of the said license and of the whole of the said licensee's undertaking in respect of the said license (including all lands, buildings, works, materials and plant) by way of sale to Mr. P. N. Agate. An engrossment in the following form should be made on the original license :—

" GOVERNMENT OF BOMBAY.

PUBLIC WORKS DEPARTMENT.

Memorandum of Consent No. 4696/36.

Dated the 12th November 1942.

Under the provisions of sub-section (*2*) of section 9 of the Indian Electricity Act, 1910 (IX of 1910), (hereinafter referred to as the ' said Act ') the Government of Bombay is pleased to consent to the assignment

*Not printed.

and transfer by Mr. Narayan Dattaram Nerurkar carrying on business as Electrical Contractor (hereinafter referred to as ' the said licensee ') as the present holder of the Haveri Electric License, 1940, (hereinafter referred to as ' the said license ') and of the whole of the said licensee's undertaking in respect of the said license (including all lands, buildings, works, materials and plant) (hereinafter referred to as the ' said undertaking ') by way of sale to Mr. P. N. Agate, subject to the performance by the said Mr. Agate of the obligations imposed upon the said licensee and to all the rights of the Government under the said license, the said Act and the rules made thereunder.

Provided always that the consent hereby given shall not authorise any future assignment of the said license or the transfer of the said undertaking or any part thereof, without a fresh consent in writing of the Government of Bombay.

Dated this Twelfth day of November 1942.

By order of the Governor of Bombay,

Secretary to the Government of Bombay,
Public Works Department."

2. The Secretary to the Government of Bombay, Public Works Department, is authorised to sign on behalf of Government the engrossment of the memorandum of consent to be endorsed on the license.

3. The following letter should be addressed to Mr. N. D. Nerurkar, Licensee, the Haveri Electric License, 1940 :—

" With reference to your letter, dated the 31st October 1942, I am directed to return herewith the Haveri Electric License, 1940, with the requisite memorandum of consent engrossed thereon. Its receipt may please be acknowledged."

By order of the Governor of Bombay,

R. H. HAMMETT,
Deputy Secretary to Government.

G. R. No. 4696/36, P. W. D., dated the 12th November 1942.

To

The Commissioner, Southern Division.
The Collector of Dharwar.
The Superintending Engineer, Southern Circle.
The Electrical Engineer to Government.
The Executive Engineer, Dharwar Division.
The Executive Engineer, Electrical Division.
Mr. N. D. Nerurkar (by letter).
The Solicitor to Government.

No. of 1942.

Copy forwarded for information and guidance to

1827 (Sdr)
15-12-42

Submitted for information
Secret file L. Electric
42

KGL
17.12
Sdr BGD
17/12

L. Electric 42